

**United States**  
**Department of the Interior**  
**Bureau of Land Management**

*Miles City Field Office*

**Prairie County XIT**  
**Road Re-Route**

Environmental Assessment (EA)  
DOI-BLM-MT-C020-2013-0176-EA

*For Further Information Please Contact:*

Bureau of Land Management  
Miles City Field Office  
111 Garryowen Road  
Miles City, Montana 59301  
406-233-2800

BLM



## ENVIRONMENTAL ASSESSMENT REVIEW

<b>OFFICE/AREA: Miles City Field Office</b>	<b>DOI-BLM-MT-C020-2013-0176-EA</b>
	<b>DATE POSTED: 06/19/2013</b>
<b>NAME: Prairie County XIT Road Re-Route</b>	<b>DATE DUE: 07/01/13</b>
<b>SERIAL NO: MTM-99358 – ROW Amendment</b>	<b>FUNDING: Applicant</b>
<b>LOCATION: T15N, R48E, Sec. 11, E½</b>	

<b>ORIGINATOR DATE/INITIALS</b>	<b>TITLE</b>	<b>ASSIGNMENT</b>
<b>Pam Wall 06/19/13 <i>pw</i></b>	<b>Realty Specialist</b>	<b>Project Coordinator/Lands and Realty, Soil, VRM, Recreation</b>

REVIEWERS	TITLE	ASSIGNMENT	DATE/INITIALS
Doug Melton	Archeologist	Cultural/Paleo/Indian Trust/Native American Concerns	07/28/13 DM Cultural Report MT-020-13-211
Dale Tribby	Wildlife Biologist	Wildlife/T&E	6/26/13 <i>dct</i>
Shane Findlay	Sup. Land Use Spec.	Review	SDF 7/31/13

  
**ENVIRONMENTAL COORDINATOR**

8/1/2013  
**DATE**



## ENVIRONMENTAL ASSESSMENT

**EA NUMBER:** DOI-BLM-MT-C020-2013-0176-EA

**SERIAL NUMBER:** MTM-99358 Amendment

**PROPOSED ACTION/TITLE TYPE:** Prairie County XIT Road Re-Route

**LOCATION OF PROPOSED ACTION:** T. 15 N., R. 48 E., Section 11, E½, P.M.M., Prairie County, Montana

**PREPARING OFFICE:** Miles City Field Office

**APPLICANT:** Prairie County

**DATE OF PREPARATION:** June 19, 2013

**CONFORMANCE WITH APPLICABLE LAND USE PLAN:** This proposed action is in conformance with the Big Dry Resource Area RMP/EIS ROD which was approved in April of 1996. On page 10 of the Record of Decision, it states that "In areas where rights-of-way are allowed, stipulations from the BLM Manual 2800 will be used to protect resource values." The proposed action has been reviewed for conformance with this plan and its terms and conditions as required by 43 CFR 1610.5.

**PURPOSE AND NEED:** The purpose of this action is to amend Prairie County's existing ROW grant MTM-99358 which was issued to the county for the XIT Road where it crosses federal, Land Utilization (LU) Project Lands, which were purchased by the Federal Government and administered under Title III of the Bankhead-Jones Farm Tenant Act and subsequently transferred by various Executive Orders between 1949 and 1960 from jurisdiction of the U.S. Department of Agriculture to the U.S. Department of the Interior, now administered by the Bureau of Land Management (BLM). ROW MTM-99358 would be amended to allow Prairie County to re-route the road by straightening it to improve highway safety and lower maintenance costs, especially during the winter, due to drifting snow. A sharp curve would be taken out of the roadway and it would be improved and graveled making it an all-weather road. The road is used by livestock, hay, grain, and feed trucks of local farmers and ranchers, and UPS, FED EX, hunters, emergency services, local traffic, and the general public. Farming, ranching, and hunting are the main activities in this area. Much of the area has existing O&G leases, which would also potentially impact the road use.

**PROPOSED ACTION:** Prairie County has applied to the BLM for a Title V, Federal Land Policy and Management Act (90Stat. 2776; 43 U.S.C. 1761) amendment to their existing XIT Road ROW (MTM-99358) to re-route a portion of the road in the E½, Section 11, T15N, R48E., P.M.M., to make it an all-weather, farm to market road which is safer and a shorter route from Highway 253 to the Cedar Creek Road. The construction of the new route would be permanent and it would create a shorter and safer route for local farmers and ranchers, and UPS, FED EX, hunters, emergency services, local traffic and the general public, including possibly oil field vehicles. Prairie County proposes to straighten the roadway to take a sharp corner and long curve out of it, starting approximately where the road curves on the North section line of Section 11, in the NW¼NW¼NE¼ and running on a basically straight southeasterly line connecting again with the original road on the East section line of Section 11 at approximately the middle of the SE¼ (see attached map). This would help alleviate the drifting snow problem on the road. The current 60-foot wide ROW MTM-99358 would be amended to allow for this re-route and the abandoned portion of the road would be reclaimed and relinquished. Approximately 4,655 feet of new road with a 24-foot driving surface within a 60-foot wide ROW, consisting 6.41 acres, more or less would be constructed. Approximately 5,230 feet existing road within a 60-foot wide ROW, consisting of 7.21 acres, more or less, would be reclaimed and that portion of the ROW relinquished. No fences or livestock water facilities would be disturbed in this proposed action. The ROW amendment would be for the same term as the original ROW with an expiration date of December 31, 2039 and would be renewable.

Construction activities would begin as soon as the ROW is approved with completion projected for the fall of 2013. The construction and reclamation would be completed according to BLM engineering road standards which have been supplied to the County. The existing road would be used as a bypass during the construction period. The county would be responsible for all applicable construction permitting (COE 404, SWPPP, etc.) if any.

County equipment to be used for the proposed road project would consist of an 82LB Case Loader, 160M Cat blade, 870 John Deere blade, a drill and 3 gravel trucks. Up to a five-man crew would be working on the project. The County proposes to remove and stockpile the topsoil; build the road and 3:1 sloped ditches and install culverts if needed (minimum diameter of 18”) with its blades and pay loader; and reclaim the disturbed areas and ditches with the topsoil. The trucks would be used to haul approximately 80 loads of pit run gravel on the new road surface. Gravel would be obtained from a County gravel pit at another location within the County. This new portion of the road would be put under the County’s regular maintenance program. Restoration of the old road bed would be completed as soon as the new construction is completed. The old road would be re-contoured to resemble the surrounding terrain, any stored topsoil would be spread over the re-contoured area, necessary erosion control measures would be installed, and disturbed areas would be seeded with a certified weed-seed free mix as determined by the authorizing officer.

The standard stipulations for cultural and/or paleontological resource protection and hazardous materials stipulation would be made a part of the ROW grant amendment, as would the standard Civil Rights stipulation and standard stipulation that all activities associated with the ROW would be conducted within the authorized limits of the grant. All operation, maintenance, reconstruction, design, material, and termination practices shall be in accordance with safe and proven engineering practices as stated in BLM Manual 9113- Road Standards, including that the minimum diameter of culverts must be 18 inches. The old road bed would be reclaimed by re-contouring the area to resemble the surrounding terrain and reseeding all disturbed areas. The applicant would be responsible for weed control on disturbed areas within the limits of the ROWs and for coordinating with parties holding authorized rights on the adjacent and affected lands [such as the grazing permittee/lessee and other ROW holders if any]. Only the minimum amount of vegetation would be removed and the appropriate seed mix would be used for reclamation. The project would be completed in compliance with the applicant’s application/plan of development. Ninety days prior to termination of the right-of-way, the holder shall contact the authorized officer to arrange a joint inspection of the right-of-way and to agree on an acceptable termination (and rehabilitation) plan. The ROW would be amended pursuant to Title V of the Federal Land Policy and Management Act of October 21, 1976 (90Stat. 2776; 43 U.S.C. 1761) and be subject to the terms and conditions in 43 CFR 2800 and to the attached stipulations. The original ROW has an expiration date of December 31, 2039 and is renewable as would the amendment. Prairie County is exempt from paying processing and monitoring fees, and rental as provided for by regulations found at 43 CFR 2804.16 and 2806.14, respectively. The ROW amendment would be monitored for use and before renewal or closure along with the rest of the original one.

**ALTERNATIVE 1 - NO ACTION:** Under the No Action Alternative, BLM would not amend Prairie County’s existing ROW grant, MTM-99358, to allow for the rerouting of the XIT Road. The County would build up the old route but would still have safety issues with sharp corners and drifting snow.

**AFFECTED ENVIRONMENT:**

The following critical resources have been evaluated and are not affected by the proposed action or the alternatives in this EA:

<b>Mandatory Item</b>	<b>Potentially Impacted</b>	<b>No Impact</b>	<b>Not Present On Site</b>
Threatened and Endangered Species		X	
Floodplains			X
Wilderness Values			X
ACECs			X
Water Resources (drinking/ground/surface)		X	
Air Quality		X	
Cultural or Historical Values		X	
Prime or Unique Farmlands			X
Wild & Scenic Rivers			X
Wetland/Riparian			X
Native American Religious Concerns		X	

Wastes, Hazardous or Solids		X	
Invasive, Nonnative Species		X	
Environmental Justice		X	

*The following non-critical resources will not be impacted by this proposed action; therefore they will not be analyzed in detail by this Environmental Assessment: Fire, Forestry, Geology/Minerals, Hydrology, Livestock Grazing, Socio-Economics.*

**Cultural/Paleontological Resources:** The proposed road and road segment to be removed were inventoried in June and July 2013. No cultural resources were observed in the proposed route and no cultural resources would be impacted by the segment of road to be removed. No paleontological specimens were observed in either location (See BLM Cultural Resources Report MT-020-13-211). The proposed action would have no effect to historic properties.

**Lands/Realty:** ROW grant MTM-99358 was issued to Prairie County on September 14, 2009, to authorize the county to operate the existing XIT Road which is located on federal LU BLM administered surface in Prairie County. The proposed project is to re-route a portion of the XIT Road in T15N, R48E, Section 11, E½, to take out a sharp corner and straighten the road making it shorter, safer, and to reduce road blockage by drifting snow. There are no other BLM authorized ROWs or land use authorizations in the area.

**Recreation:** The area has legal public access from this county road. The primary recreational use of this area is for hunting.

**Soils:** The majority of the project area is silt loam (Lonna-Cambeth-Cabbart) with land capability 4e and 4 to 12 percent slopes; the rest is primarily gravelly loam (Sixbeacon-Tricart complex) with land capability 3e-4e and 4 to 15 percent slopes with low hills. Vegetation at the site includes those most common in the northern mixed grass prairies. Western wheatgrass, green needlegrass, needle and thread, bluebunch wheatgrass, little bluestem, and blue grama are the most common grasses. Big sage would be the dominant shrub in the area. Forbs vary each year depending on the weather and amount of precipitation received.

**VRM:** The proposed project is within visual resource management Class IV. The objective of this class is to provide for management activities that require major modifications of the existing character of the landscape. The level of change to the characteristic landscape can be high. These management activities may dominate the view and be the major focus of viewer attention. However, every attempt should be made to minimize the impact of these activities through careful location, minimal disturbance, and repetition of the basic elements.

**Wildlife:** The project area is habitat for a variety of game and non-game wildlife, including but not limited to: sharp-tailed grouse, Hungarian partridge, pronghorn antelope, mule and whitetail deer, coyotes, badgers and numerous non-game birds. Most of the non-game birds are neo-tropical migrants and protected by the Migratory Bird Treaty Act. No crucial winter ranges or known sage/sharp-tail grouse leks are within the project area. No habitat for threatened or endangered species is present. Sage-grouse could be present in the project area, but no records indicate they have been observed in recent years. Raptor nesting habitat exists within one-half mile of the area of disturbance; however, there are no identified raptor nests within a half-mile of the project area.

## **ENVIRONMENTAL IMPACTS:**

### **DESCRIPTION OF IMPACTS FROM PROPOSED ACTION:**

**Cultural/Paleontological Resources:** The proposed action would have no impact to cultural or paleontological resources. No sites were identified in the inventory of the proposed new road segment or segment of existing road to be removed. There would be no cultural properties listed on or eligible for listing on the National Register of Historic Places. The cultural/paleontological stipulation attached to the ROW grant would deal with unanticipated discoveries of cultural materials should they be found during construction.

**Lands/Realty:** An amendment to Prairie County's ROW grant (MTM-99358) would be issued to allow for the

rerouting of the existing XIT Road in the E½, Section 11, T15N, R48E, P.M.M., Prairie County, Montana, to make the road safer, shorter, and less susceptible to drifting snow. Approximately 4,655 feet of new road with a 24-foot driving surface within a 60-foot wide ROW, consisting 6.41 acres, more or less would be constructed. Approximately 5,230 feet existing road within a 60-foot wide ROW, consisting of 7.21 acres, more or less, would be reclaimed and that portion of the ROW relinquished. The ROW amendment would be for the same term as the original ROW with an expiration date of December 31, 2039 and would be renewable.

**Recreation:** The proposed action would have little effect on recreationists other than that travel would be made easier for recreationists by realigning the road and making it safer, shorter and passable year-around.

**Soils:** The new proposed surface disturbance would impact approximately 3 acres of soil and has the potential to increase erosion by water and wind during and shortly after project operations. Once the operation was completed and vegetation was re-established, on the new construction and rehabilitated road, erosion rates should return to natural conditions. Vegetation disturbance would be confined to the construction limits and disturbed areas would be reseeded. Vegetative productivity would be restored through reclamation. Surface disturbance would present opportunities for weed invasion and spread; however, implementation of reclamation measures and measures to monitor and control noxious weeds would ensure that potential impacts from noxious weeds and invasive plants would be minimal.

**VRM:** The level of change to the landscape would be moderate with the proposed action. Vegetation would be restored through reclamation and disturbed areas would be reseeded. The proposed action and reclamation, once in place, would not attract attention and dominate the view of the casual observer.

**Wildlife:** Short term displacement of some wildlife species may occur during construction activities, and a small amount of general wildlife habitat would be lost during construction. New disturbance would be reclaimed as would the location of the old road. As an existing road currently exists, habitat fragmentation has occurred. The proposed road would not contribute significantly to additional fragmentation.

#### **DESCRIPTION OF IMPACTS FROM ALTERNATIVE 1 - NO ACTION:**

**Cultural/Paleontological Resources:** If the no action alternative is selected there would be no impact to cultural or paleontological resources.

**Lands/Realty:** Prairie County would not be issued an amendment to ROW grant MTM-99358 allowing the rerouting of the XIT Road. The County would build up the old route but would still have safety issues with sharp corners and drifting snow.

**Recreation:** The road improvements would not be made which would affect vehicle traffic safety and the ability to reduce snow drifting on the road.

**CUMULATIVE IMPACTS:** If the ROW is amended to allow for the project, there would still be just one ROW in the area and it would impact a slightly smaller acreage and allow for a safer road. There will be no other cumulative impacts from this project in addition to those identified in the Big Dry Resource Management Plan completed in 1996. A detailed discussion of these cumulative impacts can be found on Pages 118 and 119 of the Big Dry EIS.

**MITIGATION:** The ROW amendment would be subject to the terms and conditions in 43 CFR 2800, the stipulations in the application/plan of development and the stipulations listed below.

#### **CONSULTATION/COORDINATION:**

Gary Pfieffe, for Prairie County

Todd Henry, Prairie County Road Superintendent

**LIST OF PREPARERS:**

Doug Melton, Archeologist, BLM

Dale Tribby, Wildlife Biologist, BLM

Shane Findlay, Sup. Land Use Spec., BLM

Pam Wall, Realty Specialist, BLM



**UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
MILES CITY FIELD OFFICE  
FINDING OF NO SIGNIFICANT IMPACT**

**Prairie County XIT Road Re-Route  
DOI-BLM-MT-C020-2013-0176-EA**

**BACKGROUND**

The origin of the environmental assessment was due to a request from Prairie County for a right-of-way amendment for the rerouting of a portion of the Prairie County XIT Road on federal BLM administered land to make the road safer for public use, shorter, and less susceptible to blockage by drifting snow.

**FINDING OF NO SIGNIFICANT IMPACT**

On the basis of the information contained in the EA (DOI-BLM-MT-C020-2013-0176-EA), and all other information available to me, it is my determination that:

- (1) The implementation of the Proposed Action or alternatives would not have significant environmental impacts beyond those already addressed in the Big Dry Resource Management Plan which was approved in April of 1996.
- (2) The Proposed Action is in conformance with the Record of Decision for the Big Dry Resource Management Plan (BDRMP) as amended; and
- (3) The Proposed Action does not constitute a major federal action having a significant effect on the human environment.

Therefore, an environmental impact statement or a supplement to the existing environmental impact statement is not necessary and will not be prepared.

This finding is based on my consideration of the Council on Environmental Quality's (CEQ) criteria for significance (40 CFR '1508.27), both with regard to the context and to the intensity of the impacts described in the EA.

**Context**

The proposed action is a site specific action which would occur on federal BLM administered land in Prairie County which is designated as available for issuance of ROW proposals in the Big Dry RMP, as amended. The Big Dry RMP anticipated that ROW applications would continue to be approved and on page 10 of the Record of Decision, it states that "In areas where rights-of-way are allowed, stipulations from the BLM Manual 2800 would be used to protect resource values." The proposed action has been reviewed for conformance with this plan and its terms and conditions as required by 43 CFR 1610.5.

Under the Proposed Action, an amendment to Prairie County's ROW grant MTM-99358 would be issued to Prairie County to allow the county to re-route the existing XIT Road in the E½, Section 11, T15N, R48E, P.M.M., Prairie County, Montana, to allow for safer better year-around travel and it would shorten the length of the road and reduce the impact of blowing drifting snow. Prairie County would straighten the roadway to take a sharp corner and long curve out of it, starting approximately where the road curves on the North section line of Section 11, in the NW¼NW¼NE¼ and running on a basically straight southeasterly line connecting again with the original road on the East section line of Section 11 at approximately the middle of the SE¼ (see attached map). This would help alleviate the drifting snow problem on the road. The current 60-foot wide ROW MTM-99358 would be amended to allow for this re-route and the abandoned portion of the road would be reclaimed and relinquished. Approximately 4,655 feet of new road with a 24-foot driving surface within a 60-foot wide ROW, consisting 6.41 acres, more or less would be constructed. Approximately 5,230 feet of existing road within a 60-foot wide ROW, consisting of 7.21 acres, more or

less, would be reclaimed and that portion of the ROW relinquished. No fences or livestock water facilities would be disturbed in this proposed action. The ROW amendment would be for the same term as the original ROW with an expiration date of December 31, 2039 and would be renewable. The county would be responsible for all applicable construction permitting (COE 404, SWPPP, etc.).

The standard stipulations for cultural and/or paleontological resource protection and hazardous materials stipulation would be made a part of the ROW grant amendment, as would the standard Civil Rights stipulation and standard stipulation that all activities associated with the ROW would be conducted within the authorized limits of the grant. All operation, maintenance, reconstruction, design, material, and termination practices shall be in accordance with safe and proven engineering practices as stated in BLM Manual 9113- Road Standards, including that the minimum diameter of culverts must be 18 inches. The old road bed would be reclaimed by re-contouring the area to resemble the surrounding terrain and reseeding all disturbed areas. The applicant would be responsible for weed control on disturbed areas within the limits of the ROWs and for coordinating with parties holding authorized rights on the adjacent and affected lands [such as the grazing permittee/lessee and other ROW holders if any]. Only the minimum amount of vegetation would be removed and the appropriate seed mix would be used for reclamation. The project would be completed in compliance with the applicant's application/plan of development. Ninety days prior to termination of the right-of-way, the holder shall contact the authorized officer to arrange a joint inspection of the right-of-way and to agree on an acceptable termination (and rehabilitation) plan. The ROW would be amended pursuant to Title V of the Federal Land Policy and Management Act of October 21, 1976 (90Stat. 2776; 43 U.S.C. 1761) and be subject to the terms and conditions in 43 CFR 2800 and to the attached stipulations. The original ROW has an expiration date of December 31, 2039 and is renewable as would the amendment. Prairie County is exempt from paying processing and monitoring fees, and rental as provided for by regulations found at 43 CFR 2804.16 and 2806.14, respectively. The ROW amendment would be monitored for use and before renewal or closure along with the rest of the original grant.

## **Intensity**

I have considered the potential intensity/severity of the impacts anticipated from the proposed action and all alternatives relative to each of the ten areas suggested for consideration by the CEQ.

**1. Impacts that may be both beneficial and adverse.** The EA considered both potential beneficial and adverse effects. The proposed project would impact resources as described in the EA. In addition to mitigation measures included in the project design, BLM developed additional mitigation measures to further minimize or eliminate adverse impacts to other resources and land uses. These additional mitigation measures are identified in the proposed action and are attached to this document as ROW Stipulations. The EA also disclosed beneficial impacts from the proposed project to provide safe and easier transportation through the area to the farms and ranches, and improve safety for the families, workers, and delivery people along this route as well as the general public and possibly oil development traffic that travel this roadway and the effect of drifting snow on the road would be reduced. None of the environmental effects discussed in detail in the EA are considered significant, nor do the effects exceed those described in the Big Dry Resource Area Management Plan, as amended.

**2. The degree to which the proposed action affects public health and safety.** The proposed action would improve public safety by rerouting the XIT Road to make for safer and shorter travel and reduced the impact of drifting snow.

**3. Unique characteristics of the geographic area such as proximity of historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.** There are no known historic or cultural resource sites that would be affected by the proposed action. There are no parks, prime farmlands, or wild and scenic rivers in the planning area. Unanticipated discoveries of cultural material located during construction would be mitigated through the cultural stipulation to be included in the ROW grant.

**4. The degree to which the effects on the quality of the human environment are likely to be highly controversial.** No unique or appreciable scientific controversy has been identified regarding the effects of the Proposed Action.

**5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.** The analysis has not shown that there would be any unique or unknown risks to the human environment.

**6. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.** This project neither establishes a precedent nor represents a decision in principle about future actions. The proposed action is consistent with actions appropriate for the area as designated by the Big Dry RMP, as amended.

**7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.** The environmental analysis did not reveal any cumulative effects beyond those already analyzed in the EISs which accompanied the Big Dry RMP, as amended.

**8. The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historic resources.** The proposed action would not adversely affect any district, site, highway, structure, or object listed or eligible for listing in the National Register of Historic Places or cause loss or destruction of cultural or historic resources.

**9. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.** There are no threatened or endangered species or habitat in the area of the proposed action.

**10. Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.** The proposed action does not threaten to violate any Federal, State, or local law.



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Todd D. Yeager  
Field Manager  
Miles City Field Office

8/8/2013

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Date



**UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
MILES CITY FIELD OFFICE  
DECISION RECORD**

**Prairie County XIT Road Re-Route  
DOI-BLM-MT-C020-2013-0176-EA**

**DECISION**

It is my decision to select the Proposed Action Alternative as described in the **Prairie County XIT Road Re-Route EA [DOI-BLM-MT-C020-2013-0176-EA]**. The EA and the FONSI analyzed the selected alternative and found no significant impacts. Implementation of this decision will result in the re-route of the XIT Road. Rerouting this road will allow for making the road safer and shorter and reduce the effect of blowing snow on the road allowing for year-around transportation through the area for farmers, ranchers, hunters and the general public and possibly oil field vehicles. The selected alternative is in conformance with the Big Dry Resource Management Plan, as amended.

**ALTERNATIVES**

In addition to the selected alternative, the EA considered one other alternative. Alternative 2 is the "No Action" alternative which would not authorize any actions on BLM administered lands and Prairie County would build up the existing road but not get rid of the sharp corner causing safety issues nor the drifting snow problem.

**RATIONALE FOR SELECTION**

The purpose of this action is amend Prairie County's ROW grant MTM-99358 which was issued to the county for the XIT Road where it crosses federal, LU Project Lands administered by the BLM. ROW MTM-99358 will be amended to allow Prairie County to re-route the road by straightening it to improve highway safety and lower maintenance costs, especially during the winter due to drifting snow. A sharp curve will be taken out of the roadway and the road will be improved and graveled making it an all-weather road. Prairie County will re-route a portion of the road in the E½, Section 11, T15N, R48E, P.M.M., to make it an all-weather, farm to market road which is safer and a shorter route from Highway 253 to the Cedar Creek Road. The construction of the new route would be permanent and it would create a shorter and safer route for local farmers and ranchers, and UPS, FED EX, hunters, emergency services, local traffic and the general public, including possibly oil field vehicles. Prairie County will straighten the roadway to take a sharp corner and long curve out of it, starting approximately where the road curves on the North section line of Section 11, in the NW¼NW¼NE¼ and running on a basically straight southeasterly line connecting again with the original road on the East section line of Section 11 at approximately the middle of the SE¼ (see attached map). This would help alleviate the drifting snow problem on the road. ROW MTM-99358 will be amended to allow for this re-route and the abandoned portion of the road will be reclaimed and relinquished. Approximately 4,655 feet of new road with a 24-foot driving surface within a 60-foot wide ROW, consisting 6.41 acres, more or less will be constructed. Approximately 5,230 feet existing road within a 60-foot wide ROW, consisting of 7.21 acres, more or less, will be reclaimed and that portion of the ROW relinquished. No fences or livestock water facilities will be disturbed in this proposed action. The ROW amendment will be for the same term as the original ROW with an expiration date of December 31, 2039 and will be renewable.

The project will be completed in compliance with the applicant's application/plan of development. The ROW will be amended pursuant to Title V of the Federal Land Policy and Management Act of October 21, 1976 (90Stat. 2776; 43 U.S.C. 1761) and be subject to the terms and conditions in 43 CFR 2800 and to the attached stipulations.

## CONSULTATION AND COORDINATION

Gary Pfieffe for Prairie County and Todd Henry, Prairie County Road Supervisor were consulted. The Prairie County XIT Road Re-Route EA was made available online via the Miles City Field Office NEPA log.

## IMPLEMENTATION

Once the Prairie County XIT Road Re-Route EA FONSI and Decision Record are approved, Prairie County's ROW grant, MTM-99358, will be amended authorizing the re-route of the XIT Road.

## ADMINISTRATIVE REVIEW OPPORTUNITIES


A BLM decision to issue a ROW may be appealed under regulations in 43CFR 2801.10, in accordance with part 4 of 43 CFR. A BLM decision affecting a ROW application carries the "full force and effect" of the decision. Under full force and effect the decision can be implemented immediately even if the decision is appealed to the IBLA. An affected party has the opportunity to file a petition for a stay with an appeal to the IBLA. The decision to issue a ROW in full force and effect requires information on petitions for stay to be included with the decision notification. The decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and information on BLM Form 1842-1. If an appeal is taken, the notice of appeal must be filed in the Miles City Field Office at 111 Garryowen Road, Miles City, Montana 59301 within 30 days from receipt of the decision issuing the decision with a copy of the notice of appeal sent to the Office of the Field Solicitor, U.S. Department of Interior, P. O. Box 31394, Billings, Montana 59107-1394. The appellant has the burden of showing that the decision appealed from is in error.

If a petition (request) is filed pursuant to regulation 43 CFR 2881.10 for a stay (suspension) of the effectiveness of the decision during the time that the appeal is being reviewed by the Board, the petition for a stay must accompany the notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in the decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with the Miles City Field Office. If a stay is requested, the requester has the burden of proof to demonstrate that a stay should be granted.

### Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

  
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Todd D. Yeager  
Field Manager  
Miles City Field Office

8/8/2013

\_\_\_\_\_  
Date

**Prairie County XIT Road Re-Route EA**  
**DOI-BLM-MT-C020-2013-0176-EA**  
**Prairie County Right-of-Way Stipulations**  
**MTM-99358 Amendment**

1. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the authorized officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder.
2. The holder shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the holder(s) shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et seq.) with regard to any toxic substances that are used, generated by or stored on the right-of-way or on facilities authorized under this right-of-way grant. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Section 102b. A copy of any report required or requested by any Federal agency or State government as a result of a reportable release or spill of any toxic substances shall be furnished to the authorized officer concurrent with the filing of the reports to the involved Federal agency or State government.
3. The holder shall conduct all activities associated with the construction, operation, and termination of the right-of-way within the authorized limits of the right-of-way.
4. All operation, maintenance, reconstruction, design, material, and termination practices shall be in accordance with safe and proven engineering practices as stated in BLM Manual 9113- Road Standards [[http://www.blm.gov/pgdata/etc/medialib/blm/mt/blm\\_programs/energy/oil\\_and\\_gas/operations/gold\\_book.Par.10040.File.dat/9113.pdf](http://www.blm.gov/pgdata/etc/medialib/blm/mt/blm_programs/energy/oil_and_gas/operations/gold_book.Par.10040.File.dat/9113.pdf)] and in accordance with the "Gold Book" [[http://www.blm.gov/wo/st/en/prog/energy/oil\\_and\\_gas/best\\_management\\_practices/gold\\_book.html](http://www.blm.gov/wo/st/en/prog/energy/oil_and_gas/best_management_practices/gold_book.html)] requirements for roads. The County will be responsible for all applicable construction permitting (COE 404, SWPP, etc.), if any.
5. The minimum diameter of culverts must be 18 inches. The holder shall re-contour disturbed areas and the abandoned section of the right-of-way, by grading to restore the site to approximately the original contour of the ground as determined by the authorized officer.
6. Holder shall remove only the minimum amount of vegetation necessary for the construction of structures and facilities. Topsoil shall be conserved during excavation and reused as cover on disturbed areas to facilitate regrowth of vegetation.
7. The holder shall seed all disturbed areas with native seed, using an agreed upon method suitable for the location. Seeding shall be repeated if a satisfactory stand is not obtained as determined by the authorized officer upon evaluation after one growing season. The holder must seed all disturbed areas with the seed mixture(s) listed below. The seed mixture(s) must be planted in the amounts specified in pounds of pure live seed (PLS)/acre. There must be no primary or secondary noxious weed seed in the seed mixture. Seed must be tested and the viability testing of seed must be done in accordance with State law(s) and within six months prior to purchase. Commercial seed must be either certified or registered seed. The seed mixture container must be tagged in accordance with State law(s) and available for inspection by the authorized officer.

Seed must be planted using a drill equipped with a depth regulator to ensure proper depth of planting where drilling is possible. The seed mixture must be evenly and uniformly planted over the disturbed area. Smaller/heavier seeds have a tendency to drop to the bottom of the drill and are planted first. The holder must take appropriate measures to ensure this does not occur. Where drilling is not possible, seed may be broadcast and the area raked or chained to cover the seed. When broadcasting the seed, the pounds per acre noted below are to be doubled. The seeding must be repeated until a satisfactory stand is established as determined by the Authorized Officer. Evaluation of growth will not be made before completion of the second growing season after seeding. The Authorized Officer is to be notified a minimum of seven days prior to seeding of the project.

**ROW Seed Mixture (Silty, Clayey or Silt Clay Loams)**

The combination must include at least four of the following species. Thickspike wheatgrass may be substituted for wheatgrass only when western wheatgrass is unavailable.

<u>Species of Seed</u>	<u>(Variety)</u>	<u>Common Name</u>	<u>Pounds/acre *(PLS)</u>
Pascopyrum smithii	(Rosanna)	Western wheatgrass	3.00
Stipa viridula	(Lodom)	Green needlegrass	2.00
Elymus trachycaulus	(Pryor)	Slender wheatgrass	2.00
Stipa comata		Needleandthread	1.00
Pseudoroegneria spicata	(Goldar)	Bluebunch wheatgrass	2.00
Bouteloua curtipendula		Sideoats Grama	2.00
Schizachyrium scoparium		Little bluestem	2.00

\*Pure Live Seed (PLS) formula: % of purity of seed mixture times %  
germination of seed mixture = portion of seed mixture that is PLS

8. The holder shall be responsible for weed control on disturbed areas within the limits of the right-of-way. The holder is responsible for consultation with the authorized officer and/or local authorities for acceptable weed control methods (within the limits imposed in the grant stipulations).
9. The holder of this right-of-way grant or the holder's successor in interest shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and the regulations of the Secretary of the Interior issued pursuant thereto.
10. This grant is issued subject to the holder's compliance with the mitigations set forth in the application/plan of development.
11. In the event that the public land underlying the right-of-way (ROW) encompassed in this grant, or a portion thereof, is conveyed out of Federal ownership and administration of the ROW or the land underlying the ROW is not being reserved to the United States in the patent/deed and/or the ROW is not within a ROW corridor being reserved to the United States in the patent/deed, the United States waives any right it has to administer the right-of-way, or portion thereof, within the conveyed land under Federal laws, statutes, and regulations, including the regulations at 43 CFR Part 2880, including any rights to have the holder apply to BLM for amendments, modifications, or assignments and for BLM to approve or recognize such amendments, modifications, or assignments. At the time of conveyance, the patentee/grantee, and their successors and assigns, shall succeed to the interests of the United States in all matters relating to the right-of-way, or portion thereof, within the conveyed land and shall be subject to applicable State and local government laws, statutes, and ordinances. After conveyance, any disputes concerning compliance with the use and the terms and conditions of the ROW shall be considered a civil matter between the patentee/grantee and the ROW Holder."
12. \*The holder shall coordinate with the parties holding authorized rights on the adjacent and affected lands [such as the grazing permittee/lessee and other right-of-way holders].



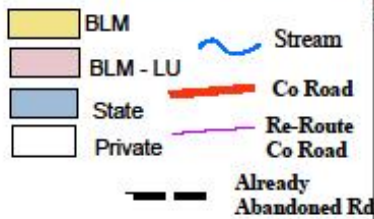
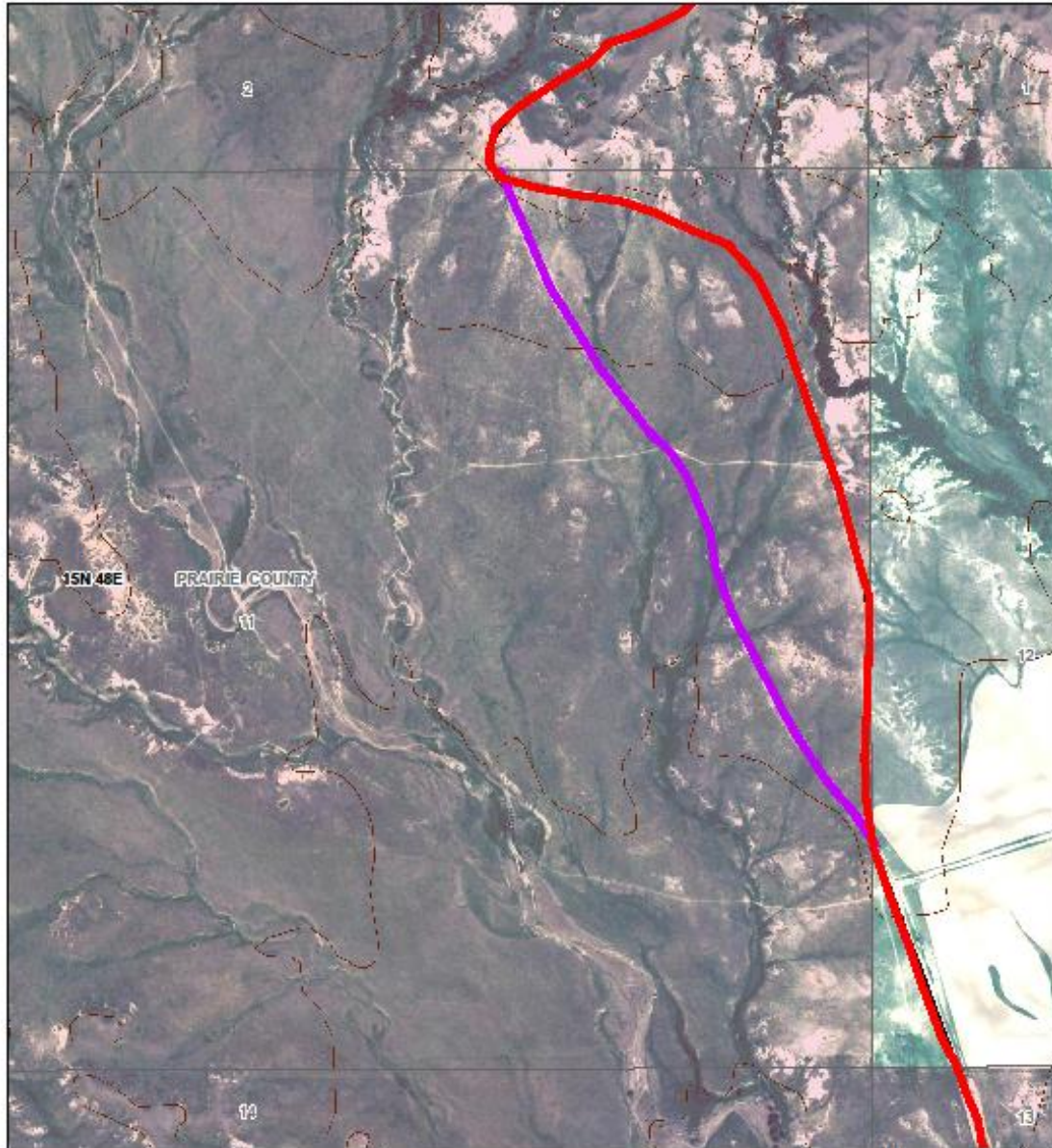
13. Ninety days prior to termination of the right-of-way, the holder shall contact the authorized officer to arrange a joint inspection of the right-of-way. This inspection will be held to agree on an acceptable termination (and rehabilitation) plan. This plan shall include, but is not limited to, removal of facilities, drainage structures, or surface material, re-contouring, top-soiling, and/or seeding. The authorized officer must approve the plan in writing prior to the holder's commencement of any termination activities.

\* This non-standard stipulation was approved by the District Manager, which is the next higher level of Bureau line management, for right-of-way MTM-83461, on September 28, 1994



**Prairie County ROW MTM-99358  
XIT Road Re-Route May 2013**

**MTM-99358 Amend  
Exhibit B  
06/05/2013**



Projected Coordinate System: NAD 1983 Albers  
Graphic Coordinate System: GCS North American 1983  
Datum: D North American 1983

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Miles



UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
MILES CITY FIELD OFFICE

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